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4 **\*E-FILED - 8/2/10\***  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 RAUL UVALLES, ) No. C 09-5221 RMW (PR)  
12 Plaintiff, ) ORDER DIRECTING  
13 v. ) PLAINTIFF TO LOCATE  
14 FRANCISCO JACQUEZ, Warden, et al., ) UNSERVED DEFENDANTS  
15 Defendants. )  
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On November 4, 2009, plaintiff filed a pro se civil rights action pursuant to 42 U.S.C. § 1983. On April 23, 2010, plaintiff filed an amended complaint. On May 5, 2010, the court ordered service of the stated cognizable claims in plaintiff's amended complaint upon named defendants. On January 4, 2010, the court received ten summons which were returned unexecuted. Specifically, defendants RN C. Duncan and RN P. Crinklaw were not served because the facility needed more information. Also, Correctional Officer D. DeWitt, Correctional Officer F. Palaccio, Correctional Officer Stout (ISU), Sergeant Henderson, Correctional Officer J. Gonzalez, Correctional Officer J. Shaw, Correctional Officer B. Carter, and Correctional Officer J. Johnson were not served because more than one employee had similar names. Accordingly, these ten defendants have not been served.

Here, plaintiff's complaint has been pending for over 120 days, and thus, absent a showing of "good cause," is subject to dismissal without prejudice as to the unserved defendants.

1 See Fed. R. Civ. P. 4(m). In cases wherein the plaintiff proceeds in forma pauperis, the “officers  
 2 of the court shall issue and serve all process.” 28 U.S.C. 1915(d). The court must appoint the  
 3 Marshal to effect service, see Fed. R. Civ. P. 4(c)(2), and the Marshal, upon order of the court,  
 4 must serve the summons and the complaint, see Walker v. Sumner, 14 F.3d 1415, 1422 (9th Cir.  
 5 1994), overruled on other grounds by Sandin v. Connor, 515 U.S. 472 (1995). Although a  
 6 plaintiff who is incarcerated and proceeding in forma pauperis may rely on service by the  
 7 Marshal, such plaintiff “may not remain silent and do nothing to effectuate such service;” rather,  
 8 “[a]t a minimum, a plaintiff should request service upon the appropriate defendant and attempt to  
 9 remedy any apparent defects of which [he] has knowledge.” Rochon v. Dawson, 828 F.2d 1107,  
 10 1110 (5th Cir. 1987). If the marshal is unable to effectuate service through no fault of his own,  
 11 for example, because plaintiff failed to provide sufficient information or because the defendant is  
 12 not where plaintiff claims, and plaintiff is informed, plaintiff must seek to remedy the situation  
 13 or face dismissal. See Walker, 14 F.3d at 1421-22.

14 Because plaintiff has not provided sufficient information to allow the Marshal to locate  
 15 and serve the above named defendants, plaintiff must remedy the situation or face dismissal of  
 16 his claims against said defendants without prejudice. See Walker, 14 F.3d at 1421-22. Such  
 17 additional information may include a first name or first initial, the defendant’s current assigned  
 18 unit or assigned unit at the time of the allegations, or other more identifying information so that  
 19 the Marshal can locate and determine the particular defendant to be served.

20 Accordingly, plaintiff must provide the court with accurate and current information for  
 21 defendants RN C. Duncan, RN P. Crinklaw, Correctional Officer D. DeWitt, Correctional  
 22 Officer F. Palaccio, Correctional Officer Stout (ISU), Sergeant Henderson, Correctional Officer  
 23 J. Gonzalez, Correctional Officer J. Shaw, Correctional Officer B. Carter, and Correctional  
 24 Officer J. Johnson such that the Marshal is able to effect service upon them. If plaintiff fails to  
 25 provide the court with the accurate and current information so that the Marshal can effect  
 26 service, within thirty (30) days of the date this order is filed, plaintiff’s claim against the above  
 27 named defendants will be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil  
 28 Procedure; the dismissal will be without prejudice to plaintiff refile his complaint with such

1 information.

2 IT IS SO ORDERED.

3 DATED: 7/30/10

*Ronald M. Whyte*

RONALD M. WHYTE  
United States District Judge